

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 154 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SURESH @ DHARMENDRAKUMAR                      GOBARBHAI

Versus

BHAVNA @ BHAVIKA DHARMENDRAKUMAR BHESARA

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Appearance:

MR RS SANJANWALA for Petitioner

MR BHARGAV N BHATT for Respondent No. 1

MR MA BUKHARI, ADDL. PUBLIC PROSECUTOR for Respondent No. 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/02/97

ORAL JUDGEMENT

1. I have heard learned counsel for the parties.  
This Criminal Revision Application is directed against the order of the Joint Judicial Magistrate First Class, Bhavnagar in Misc. Criminal Application No. 1280/94 dated 20/06/1995, whereby the learned Magistrate has awarded maintenance in favour of the nonapplicant Bhavna @ Bhavika Dharmendrakumar Bhasera at the rate of Rs.

500/- p.m. from the date of application i.e. 30th July, 1994.

2. Learned counsel for the applicant has fairly stated that he is not in a position to make any submission in the merits of the case, as the applicant could not appear before the learned Magistrate. However, he submits that the maintenance awarded at the rate of Rs. 500/- p.m. is excessive. Mr. Bhargav Bhatt, learned counsel appearing for the nonapplicant opposed this prayer.

3. The learned Magistrate has assessed the income of the applicant Suresh at the rate of Rs. 3,000/- per month. On reading of the judgement, it shows that there is no basis to indicate the income of the applicant at Rs. 3,000/- per month. It is stated that the applicant is a Matriculate and is a temporary clerk in the office of the lawyer and his income is not more than Rs. 850/- per month.

4. Having heard the learned counsel for the parties, in my view, the income of the applicant assessed by the learned Magistrate is on higher side. Considering the facts of the case and particularly the qualification and the work which the applicant is doing, the income is assessed at Rs. 1,200/- per month. In view of this, the ends of justice would meet, if the order of the learned Magistrate is modified and the petitioner is directed to pay maintenance to the nonapplicant Bhavna @ Bhavika at the rate of Rs. 350/- per month.

5. In view of the aforesaid, this Criminal Revision Application is partly allowed. The impugned order of the learned 2nd Joint Judicial Magistrate First Class, Bhavnagar dated 20/6/1995 is modified and it is directed that the applicant Suresh @ Dharmendrakumar Gobarbhai Bhasara shall pay to the nonapplicant Bhavna @ Bhavika Dharmendrakumar Bhasara the maintenance u/s 125 of the Code of Criminal Procedure at the rate of Rs. 350/- per month from the date of application i.e. 30/07/1994. The applicant is given three months time to pay the arrears of maintenance from the date of this order. Rule made absolute to the aforesaid extent.

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